

Message Text

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ACTION HEW-04

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R 201120Z MAY 75

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 8777

INFO USDOC WASHDC

AMCONSUL BOMBAY

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E.O. 11652: N/A

TAGS: EINV, ETRD

SUBJ: GOI DRUGS & PHARMACEUTICAL COMMITTEE REPORT

REF: NEW DELHI 5742

1. SUMMARY. THE LONG-AWAITED HATHI COMMITTEE REPORT CALLS FOR AN INCREASED ROLE FOR PUBLIC SECTOR AGENCIES IN DRUG PRODUCTION

AND DISTRIBUTION, THE ESTABLISHMENT OF A NATIONAL REGULATORY AUTHORITY AND RECOMMENDS MEASURES TO RESTRICT ACTIVITIES OF FOREIGN DRUG FIRMS IN INDIA. RESTRICTIONS INCLUDE REDUCTION IN FOREIGN EQUITY TO 40 PERCENT, PHASE OUT OF FORMULATION FROM IMPORTED BULK DRUGS, NO FURTHER EXPANSION IN PRODUCTION OF OVER-THE-COUNTER ITEMS, AND ABOLITION OF TRADEMARKS FOR SOME DRUGS. GOI WILL TAKE CONSIDERABLE TIME TO STUDY THE REPORT AND IT IS UNLIKELY THAT ALL OF ITS RECOMMENDATIONS WILL BE IMPLEMENTED. END SUMMARY

2. ON MAY 8, GOI PETROLEUM & CHEMICAL MINISTER K.B. MALAVIYA PRESENTED THE HATHI COMMITTEE REPORT TO PARLIAMENT. THE REPORT DEALS WITH GROWTH AND DEVELOPMENT OF THE DRUG AND PHARMACEUTICAL INDUSTRY IN INDIA. IT INCLUDES CHAPTERS ON TECHNOLOGY, PRICING, QUALITY CONTROL, RAW MATERIALS, PROCUREMENT, AND THE USE OF BRUID NAMES AND TRADEMARKS. THE REPORT CALLS FOR A MAJOR ROLE
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FOR PUBLIC SECTOR AGENCIES IN THE AREAS OF PRODUCTION AND DIS-

TRIBUTION OF ESSENTIAL DRUGS AND RECOMMENDS THE CREATION OF
A STATUTORY NATIONAL DRUG AUTHORITY OF INDIA.

3. A MAJORITY OF THE COMMITTEE MEMEBER WERE OF THE VIEW THAT
FORDTGN DRUG AND PHARMACEUTICAL FIRMS SHOULD BE NATIONALIZED.
MEMBERS OF THE COMMITTEE OPPOSED TO THE NATIONALIZATION ARGUED
THAT THERE WAS NO CASE AT THIS STAGE TO JUSTIFY SUCH A DRASTIC
MEASURE. THEY STATED THAT QUOTE NO EVIDENCE TO SUGGEST THAT
THEIR (FOREIGN DRUG FIRMS) RELATIVE IMPORTANCE HAS GROWN OR
IS GROWING OR THAT THE EXISTING INSTRUMENTAILITIES ARE INADEQUATE
TO ACHIEVE ESTABLISHED SOCIAL OBJECTIVES UNQUOTE. ALL COMMITTEE
MEMBERS, HOWEVER AGREED THAT APPROPRIATE MEASURES SHOULD BE
TAKEN TO RESTRICT ACTIVITIES OF FOREIGN DRUG COMPANIES IN INDIA.
IN THIS REGARD THE COMMITTEE'S RECOMMENDATIONS INCLUDE THE
FOLLOWING:

- (A) FOREIGN FIRMS PARTICITMATING IN JOINT VENTURES IN INDIA
SHOULD BE DIRECTED TO IMMEDIATELY DILUTE THEIR EQUITY TO
40 PERCENT, FOLLOWED BY A FURTHER PHASED REDUCTION TO 26
PERCENT;
- (B) FOREIGN COMPANIES ENGAGED IN THE PRODUCTION OF FORMU-
LATIONS USING IMPORTED BULK DRUGS, WILL BE GIVEN THREE
YEARS IN WHICH TO MANUFACTURE THESE END ITEMS FROM THE
BASIC RAW MATERIALS STAGE?
- (C) FOREIGN COMPANIES WILL BE PERMITTDM NO FURTHER EXPAN-
SIONS OF CAPACITY IN THE FOLLOWING AREAS: HOUSEHOLD REMEDIES
SUCH AS TONICS, VITAMIN PREPARATIONS, OINTMENTS FOR COLD,
BURNS, SPRAINS, ETC., COUGH MIXTURES, ASPIRIN TABLETS,
PAIN-RELIEVING TABLETS, ETC., THOSE FIRMS CURRENTLY PRO-
DUCING AT LEVELS ABOVE LICENSED CAPACITY WILL BE REQUIRED
TO REDUCE PRODUCTION TO THE LICENSED CAPACITY;
- (D) THE REGULATIONS CONCERNING REPATRIATION OF EARNINGS BY
FOREIGN COMPANIES SHOULD BE MADE MORE RESTRICTIVE;
- (E) IN THE CASE OF FUTURE LICENSE APPLICATIONS FOR THE MANU-
FACTURE OF BULK DRUGS, PUBLIC SECTOR AND INDIAN COMPANIES
SHOULD BE GIVEN PREFERENCE OVER FOREIGN COMPANIES.
- (F) WHENEVER MANUFACTURE OF BULK DRUGS IS CARRIED ON FROM
THE PENULTIMATE STAGE, THE COMITNH CONCERNED SHOULD BE
ASKED TO MANUFACTURE THE DRUG FROM THE BASIC STAGE WITHIN
A PERIOD OF TWO YEARS; AND

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(G) TRADEMARKS REGISTERED IN INDIA BY FOREIGN FIRMS FOR
FORMULATIONS SHOULD NOT BE PERMITTED TO BE RENEWED IF
SIMILAR FORMULATIONS ARE PRODUCED IN INDIA BY LOCAL FIRMS.

4. RESPONDING TO QUESTIONS IN PARLIAMENT, MANISTER MALAVIYA
SAID THAT BECAUSE THE REPORT HAD SUCH WIDE RANGING IMPLICATIONS,
SEVERAL OF THE MORE CONTROVERSIAL RECOMMENDATIONS WOULD HAVE TO
BE STUDIED IN DETAIL BY THE GOI BEFORE THEY WERE IMPLEMENTED.

5. ON MAY 9, COMMERCIAL COUNSELOR MET WITH THE GOI DRUG ADVISOR,
DR. P.R. GUPTA, WHO SERVED AS "MEMBER SECRETARY" OF THE HATHI
COMMITTEE.

GUPTA NOTED THAT BEFORE ANY ACTION IS TAKEN THE REPORT ITSELF
AND ANY ACTION IS TAKEN THE REPORT ITSELF AND ANY RECOM-
MENDATIONS FOR ACTION MUST BE REVIEWED BY VARIOUS AGENCIES OF
THE GOVERNMENT, WHICH WILL TAKE CONSIDERABLE TIME. NATIONALIZA-
TION IS NOT LIKELY TO TAKE PLACE HE THOUGHT, ALTHOUGH PREVIATE
COMPANIES MAY BE DIRECTED TO REDUCE THEIR EQUITY TO 40 PERCENT.
PRIVATE PHARMACEUTICAL FIRMS WOULD HELP THEIR CASE IF THEY
INCREASED EXPORTS SO THAT THE INDUSTRY AS A WHOLE WAS A NET
EARNER OF FOREIGN EXCHANGE. GUPTA ALSO RECOMMENDED THAT
FOREIGN FIRMS MAKE MORE OF AN EFFORT TO BRING IN TECHNOLOGY AND
EXPERTISE WHICH WOULD BENEFIT THE INDUSTRY AS A WHOLE.

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6. A FINAL PRINTED VERSION OF THE HATHI REPORT HAS NOT YET
BEEN RELEASED. WE ARE AIR POUCHING COPIES OF TWO CHAPTERS

(THE ONES MOST RELEVANT TO FOREIGN COMPANIES) OF THE VERSION GIVEN TO PARLIAMENT. WE WILL POUCH THE COMPLETE REPORT AS SOON AS IT IS AVAILABLE.

7. COMMENT. FOREIGN COMPANIES ACCOUNT FOR ABOUT 70 PERCENT OF THE TOTAL SALES TURNOVER OF DRUGS IN THE COUNTRY (APPROX. \$500 MILLION). THE TOTAL NUMBER OF FOREIGN DRUG COMPANIES CURRENTLY OPERATING IN THE COUNTRY IS 62, OF WHICH ABOUT 20 ARE AMERICAN. THE FOLLOWING US FIRMS HAVE EQUITY PARTICIPATION OF 50 PERCENT OR MORE: ABBOTT LABORATORIES, CYANAMID, JOHNSON & JOHNSON, MERCK & CO., PARKE DAVIS, PFIZER, RICHARDSON MERRELL, SEARLE, SMITH KLINE & FRENCH, COOPER LABORATORIES, SCHERING WARNER HINDUSTAN, AND WYETH.

8. MINISTER MALAVIYA AND HIS DEPUTY, K.R. GANESH HAVE MADE NO SECRET OF THEIR DESIRE TO RESTRICT THE ACTIVITIES OF FOREIGN DRUG FIRMS WHICH, THEY CLAIM, ARE MAKING EXORBITANT PROFITS. THEIR THINKING UNDOUBTEDLY INFLUENCED THE FINAL SHAPE OF THE COMMITTEE REPORT. THE PURELY INDIAN DRUG MANUFACTURERS, HOWEVER, ARE OPPOSED TO GOI NATIONALIZATION OF THE FOREIGN DRUG FIRMS BECAUSE THEY HAVE NO DESIRE TO COMPETE WITH THE HUGE PUBLIC SECTOR ENTITY WHICH WOULD RESULT.
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